United Nations A/67/379

General Assembly

Distr.: General
19 September 2012

Original: English

Sixty-seventh session
Item 70 (c) of the provisional agenda*,**
Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in the Palestinian territories occupied since 1967

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk, submitted in accordance with Human Rights Council resolution 5/1.

* A/67/150.

** This report is being submitted late in order to take account of significant information received from interlocutors in Israel and the occupied Palestinian territory. In this regard, the Special Rapporteur notes the Government of Israel's continuing practice of non-cooperation with his mandate, which impedes him from engaging directly with such interlocutors in the occupied Palestinian territory.

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Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

Summary

The present report addresses Israel's compliance with its obligations under international law in relation to its occupation of Palestinian territory. The Special Rapporteur focuses particular attention on the legal responsibility of business enterprises, corporations and non-State actors involved in activities relating to Israel's settlements in the occupied Palestinian territory.

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I. Introduction

1. The Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 reiterates his request to the Government of Israel to cooperate with his efforts to implement his mandate from the United Nations. Such cooperation is a fundamental legal obligation incident to membership in the Organization and ensures that the Special Rapporteur can constructively engage with the Government of Israel, victims, witnesses and civil society actors relevant to his mandate.

2. Article 104 of the Charter of the United Nations states that the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes. Article 105, paragraph 2, specifies that those who represent the United Nations shall enjoy in the territory of States Members such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization. These provisions were elaborated in the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly on 13 February 1946. Article VI, section 22, thereof, entitled "Experts on missions for the United Nations", is particularly relevant, setting forth the duties of Members to cooperate with such representatives as Special Rapporteurs and to avoid interfering with their independence.

3. It should be noted that the Government of Israel has not cooperated with many other important initiatives of the General Assembly and the Human Rights Council relating to the occupied Palestinian territory. This includes the United Nations Fact-Finding Mission on the Gaza Conflict, the Committee of Independent Experts to follow up on the fact-finding mission on the Gaza conflict, the Independent International Fact-Finding Mission on the Incident of the Humanitarian Flotilla, the Beit Hanoun fact-finding mission, the Commission of Inquiry on Lebanon, and the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories. This pattern of non-cooperation with official undertakings of the General Assembly and the Human Rights Council should produce a concerted effort by Member States, the General Assembly, the Security Council and the Secretary-General to obtain the cooperation of the Government of Israel.

4. The Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 conducted research for this report on the basis of the foundational principle that business enterprises must respect international humanitarian law and should respect human rights. They should avoid infringing on the human rights of those living under occupation and address adverse human rights impacts with which they are involved.[1] The Special Rapporteur would welcome engagement with the Government of Israel, and companies and corporations operating within or in relation to Israeli settlements in the occupied Palestinian territory, regarding the issues raised in this report.

5. The Special Rapporteur calls attention to the grave circumstances of the Palestinian people, living under prolonged occupation and with no realistic prospect of its termination in the near future, and under these conditions the United Nations

[1] Guiding Principles on Business and Human Rights (A/HRC 17/31, annex).

has a great responsibility to do all that can be done to avoid the economic, political and cultural exploitation of the Palestinian people, as well as their endowment of natural resources.

II. Working methodology for the present report

6. Taking account of the Special Rapporteur's repeated unsuccessful requests to the Government of Israel to be allowed access to the occupied Palestinian territory, the present report is based on information requested and received from civil society actors, United Nations agencies, companies and corporations, non-State entities, and other stakeholders, in particular those with expertise concerning the involvement of business enterprises in the construction and maintenance of Israeli settlements. The Special Rapporteur highlights selected individual companies that operate, conduct business or otherwise profit from Israeli settlements located in the occupied Palestinian territory. The Special Rapporteur makes recommendations to seek to ensure that businesses operating in relation to Israeli settlements take prompt action to bring their activities into line with relevant international law and related rules and standards, including international human rights law. The Special Rapporteur notes that, since the preparation of the present report, he has brought its content to the attention of the businesses discussed herein. The Special Rapporteur is requesting clarification and further information regarding the allegations contained in this report, especially with a view to pursuing the prompt implementation of his recommendations.

III. General situation of settlements

7. From 1967 to 2010 Israel established an estimated 150 settlements in the West Bank. In addition, there are an estimated 100 "outposts", settlements built without official Israeli authorization but with the protection, infrastructural support and financial help of the Government of Israel. Such "outposts" are recently the subject of Government of Israel processes and discussions regarding their potential legalization under Israeli law. This is a serious escalation of the settlement agenda that is inconsistent with Israeli political rhetoric supporting negotiations to establish a viable, independent, contiguous and sovereign Palestinian State.

8. There are also 12 settlements in Jerusalem that were established, with Government funding and assistance, on land unlawfully annexed by Israel and made part of the city. Settlements control over 40 per cent of the West Bank, including critical agricultural and water resources. Many settlements are extensively developed, comprising large gated communities or small cities. Israel does not allow Palestinians to enter or use these lands, except those with permits to work.

9. The population of Israeli settlers in the occupied Palestinian territory is between 500,000 and 650,000. Approximately 200,000 of these settlers live in East Jerusalem. Statistics indicate that the settler population (excluding that of East Jerusalem) has, over the past decade, grown at an average yearly rate of 5.3 per cent, compared to 1.8 per cent in the Israeli population as whole. In the past 12 months this population increased by 15,579 persons. The Israeli Government offers settlers benefits and incentives relating to construction, housing, education, industry, agriculture and tourism, exclusive roads, and privileged access to Israel.

The effort Israel has expended in the settlement enterprise — financially, legally and bureaucratically — has turned many settlements into affluent enclaves for Israeli citizens within an area where Palestinians live under military rule and in conditions of widespread poverty.

10. This financial, legal and bureaucratic help in settlement areas is providing settlers with privileges they would not be afforded as Israeli citizens living in Israeli territory. Such privileges provide a telling juxtaposition to the large protests that occurred in Tel Aviv, Jerusalem and Haifa in 2011, involving hundreds of thousands of Israelis who freely assembled to demand social justice, lower living costs and a Government response to the economic distress that Israeli middle classes are experiencing.

11. The establishment of the settlements is a flagrant violation of international humanitarian law as set forth in the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) and the Regulations annexed to the Hague Convention IV of 1907. Article 49 of the Fourth Geneva Convention prohibits an Occupying Power from transferring citizens from its own territory to the occupied territory. The Hague Regulations prohibit an Occupying Power from undertaking permanent changes in the occupied area unless justified by military needs in the narrow sense of the term, or unless they are undertaken for the benefit of the local population.

12. In building settlements and associated infrastructure, Israel further violates international law through the appropriation of Palestinian property not justified by military necessity, and by imposing severe movement restrictions on Palestinians. Such restrictions violate those human rights dependent on freedom of movement, including rights to health, education, family life, work and worship. In addition, the scale of Israel's settlement project and the massive financial investment in it appear to confirm Israel's intention to retain control over these areas, thus violating a core principle of the Charter of the United Nations, namely Article 2 (4), which prohibits the acquisition of territory by the use or threat of force. Moreover, the settlements fragment the West Bank, including East Jerusalem, into isolated geographical units, severely limiting the possibility of a contiguous territory and the ability to dispose freely of natural resources, both of which are required for the meaningful exercise of the fundamental and inalienable right of the Palestinian people to self-determination.

13. Israel has created a regime of separation and discrimination, with two separate systems of law in Palestinian territory: one system applies to the settlers, and treats the settlements as de facto extensions of Israel and grants settlers the rights of citizens with the protections of a quasi-democratic State. In contrast, the Palestinians are subject to a system of military administration that deprives them of legal protection and the right to participate in shaping policies regarding the land in which they live. These separate systems reinforce a regime in which rights depend on national identity and citizenship. A dual system of roads, one for settlers and one for Palestinians, further entrenches the discriminatory separation between the two communities.

14. The wall in the West Bank is one of the most prominent aspects of the settlement enterprise. Much of the route of the wall is placed inside the West Bank, and takes into account the further expansionist designs of settler communities. Access restrictions to Palestinian farmland in the vicinity of Israeli settlements

located on the eastern side of the wall are widespread. While in some cases the restricted areas are unilaterally established and enforced by the settlers, in other cases the Israeli military erects fences around settlements and declares the area a "Special Security Area". In its near unanimous (14 to 1) advisory opinion of 2004, the International Court of Justice unequivocally declared that the separation wall violated international law, should be dismantled and Palestinians compensated for harm experienced.

15. In Area C, comprising 60 per cent of the West Bank, the zoning regime applied by Israel further benefits the establishment and growth of settlements, while denying the development of Palestinian communities. The zoning regime effectively prohibits Palestinian construction in some 70 per cent of Area C, or approximately 44 per cent of the West Bank. In the remaining 30 per cent a range of restrictions makes it virtually impossible for Palestinians to obtain a building permit. In practice, Israeli authorities allow Palestinian construction only within the boundaries of an Israeli-approved plan, which covers less than 1 per cent of Area C. As a result, Palestinians are left with no choice but to build "illegally", which leads to inhumane Israeli responses involving demolition and displacement.

16. Since East Jerusalem was purportedly annexed by Israel, the Government of Israel has created demographic and geographic conditions designed to thwart peace proposals designating Jerusalem as the capital of Palestine. Israel has sought to increase the Israeli population and reduce the number of Palestinians in the city. Israel has employed the following methods: physically isolating East Jerusalem from the rest of the West Bank in part by building the wall; discriminating in land expropriation, planning and building, and demolition of houses; revoking residency and social benefits of Palestinians; and inequitably disbursing the municipal budget between the two parts of the city. The forced eviction of Palestinians from their homes by settlers backed by the Government has contributed to changing the demography of the city. Palestinians have lost their homes and many more remain at constant risk of forced eviction, dispossession and displacement. The Government supports the settlers' actions by, inter alia, allocating private security guards; sending security forces to accompany the takeover of Palestinian homes; and funding Israeli development projects in the Jerusalem settlements.

IV. Legal framework

A. General: human rights law and international humanitarian law

17. Israel is a State party to most core international human rights conventions, and reports regularly to the relevant human rights treaty bodies.[2] A situation of armed conflict or occupation does not release a State from its human rights obligations. The International Court of Justice, human rights treaty bodies, successive United Nations High Commissioners for Human Rights and special procedures of the Commission on Human Rights and its successor, the Human Rights Council, have consistently confirmed that international human rights law and international humanitarian law apply concurrently throughout the occupied Palestinian territory.

[2] http://tb.ohchr.org/default.aspx?country=il.

18. Israel is bound by international humanitarian law found in the treaties it has ratified, as well as in customary international law. Notably, in the occupied Palestinian territory Israel is bound by the provisions of international law specific to occupied territories. The rules of international humanitarian law regarding military occupation, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)[3] and the Regulations annexed to the Hague Convention respecting the Laws and Customs of War on Land of 1907,[4] must be applied by Israel, as the Occupying Power, in the West Bank, including East Jerusalem, and the Gaza Strip. Although Israel has argued against the formal application of the Geneva Convention, and agreed only to apply the "humanitarian" provisions as determined by itself, the situation remains one of belligerent military occupation, as recognized by the Security Council, the General Assembly and the Human Rights Council and most conclusively by the International Court of Justice in its 2004 advisory opinion on the wall. In addition to the applicability of the Fourth Geneva Convention, the Hague Regulations, which are accepted as customary international law, apply.[5]

19. The Government of Israel, as the Occupying Power, is duty-bound to respect and implement human rights and international humanitarian law obligations in the occupied Palestinian territory. Israel also has an obligation to ensure that private businesses operating in the occupied Palestinian territory are held accountable for any activities that have an adverse impact on the human rights of the Palestinian people.

B. Human rights and international humanitarian law obligations and principles relevant to private corporations in the occupied Palestinian territory

1. Guiding Principles on Business and Human Rights

20. On 16 June 2011 the Human Rights Council in its resolution 17/4 unanimously endorsed the Guiding Principles on Business and Human Rights[6] for implementing the United Nations "Protect, Respect and Remedy" Framework, providing — for the first time — a global standard for upholding human rights in relation to business activity. The Guiding Principles were prepared by the former Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises, Professor John Ruggie. They provide authoritative normative guidance, clarifying the roles and responsibilities of business enterprises with regard to human rights, and the necessary legal and policy measures to be taken by States arising from their existing human rights obligations to ensure respect for human rights. It is the first normative document on business and human rights to be endorsed by an intergovernmental human rights body.

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[3] United Nations, *Treaty Series*, vol. 75, No. 973.

[4] Regulations concerning the Laws and Customs of War on Land, adopted on 18 October 1907; entered into force on 26 January 1910. See Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

[5] See A/HRC/12/37.

[6] A/HRC/17/31, annex.

21. The Guiding Principles highlight the steps States should take to foster respect for human rights by businesses. They provide a framework in which companies should demonstrate that they respect human rights and reduce the risk of abuses. They also constitute a set of benchmarks by which to assess business respect for human rights. The Guiding Principles are organized under the Framework's three pillars:

(a) The State duty to protect against human rights abuses by third parties, including business enterprises, through policies, regulation and adjudication;

(b) The corporate responsibility to respect human rights, which means that business enterprises should act with due diligence to avoid infringing on the rights of others and to address the adverse impacts with which they are involved;

(c) The need for greater access to remedy for victims of business-related abuse, both judicial and non-judicial.

22. The Guiding Principles provide concrete and practical recommendations to implement the Framework. The Guiding Principles do not create new international law obligations, but constitute a clarification and elaboration of the implications of existing standards, including under international human rights law, and practices, for both States and business enterprises, integrating them within a coherent framework.[7] In addition to forming part of States' existing international human rights obligations, important elements of the Guiding Principles are also increasingly reflected in national laws, and in global, regional and industry-specific soft law standards and initiatives as well as contractual obligations.

23. Companies can have an impact on all human rights depending on the situation and context of their activities; therefore it is essential that they put in place an effective ongoing human rights due diligence process to assess risks and the potential and actual impact of their activities on human rights, integrate and act on the findings of such assessments, track the effectiveness of their response and communicate on both the assessments and the response. This is in addition to business enterprises expressing a clear public commitment to meeting their responsibility to respect human rights, and to providing for or cooperating with the remediation of any adverse effects that they have caused or contributed to.

24. Human rights may be at heightened risk and should therefore receive greater attention in particular industries and contexts, including humanitarian situations, but businesses should in all cases be encouraged to have a periodic review to assess all human rights affected by their activity. International human rights standards, including the International Bill of Human Rights[8] and the eight core conventions of the International Labour Organization (ILO), as set out in the ILO Declaration on Fundamental Principles and Rights at Work all act as an authoritative list against which to assess the human rights impacts of business enterprises. Impact assessments should also consider, depending on circumstances, additional standards, for instance, relating to the rights of indigenous peoples; women; national or ethnic, religious and linguistic minorities: children; persons with disabilities; and migrant workers and their families, wherever appropriate. Business enterprises should respect the standards of international humanitarian law whenever they operate in a situation of armed conflict. States should exercise even greater oversight with regard to businesses enterprises that they own or control.

[7] A/HRC/17/31, para. 14.

[8] The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

25. The Guiding Principles are leading to a convergence of global standards and initiatives on business and human rights, as evidenced in reports of the Working Group on the issue of human rights and transnational corporations and other business enterprises and the former Special Representative of the Secretary-General.[9] Examples of regional initiatives include: (a) the International Organization for Standardization (ISO) has included a chapter on human rights in its guidance on corporate responsibility, which is aligned with the United Nations "Protect, Respect and Remedy" Framework on which the Guiding Principles are based; (b) the European Commission has issued a communication on corporate social responsibility expressing its expectation that all enterprises should meet human rights responsibility as defined in the Guiding Principles.[10] It has also stated its intention to publish periodic progress reports on the implementation of the Guiding Principles within the European Union and invited European Union member States to develop national plans for the implementation of the Guiding Principles by the end of 2012;[11] (c) the Association of Southeast Asian Nations (ASEAN) has announced that the first thematic study by the new Intergovernmental Commission on Human Rights would focus on business and human rights in a manner that is fully compliant with the Guiding Principles;[12] and (d) the Guidelines for Multinational Enterprises of the Organization for Economic Development and Cooperation (OECD), as updated in 2011, are now fully aligned with the corporate responsibility to respect human rights as set out in the Guiding Principles.

2. The Global Compact

26. The Global Compact[13] is the leading global voluntary initiative for corporate social responsibility that also addresses the issue of business and human rights. It was launched at the initiative of the Secretary-General in 2000, aimed at persuading business leaders to voluntarily promote and apply within their corporate domains 10 principles relating to human rights, labour standards, the environment and anti-corruption. Seven United Nations bodies work in a continuing partnership with the Secretary-General's Global Compact Office, namely, the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime, the United Nations Development Programme, the United Nations Environment Programme, UN-Women, the International Labour Organization and the United Nations Industrial Development Organization. The Global Compact has stated that the Guiding Principles on Business and Human Rights provide the content of the first principle of the Global Compact and thus form part of the

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[9] Uptake of the United Nations framework and the Guiding Principles has been documented by the Working Group in its first reports to the Human Rights Council (A/HRC/20/29) and the General Assembly (A/67/285), by the Secretary-General in his report to the Human Rights Council (A/HRC/21/21 and Corr.1) and by the former Special Representative of the Secretary-General; see www.business-humanrights.org/media/documents/applications-of-framework-jun-2011.pdf.

[10] Available from http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/index_en.htm.

[11] http://ec.europa.eu/enterprise/newsroom/cf/_getdocument.cfm?doc_id=7010.

[12] Remarks by Rafendi Djamin, representativeof Indonesia to the Intergovernmental Commission on Human Rights of the Association of Southeast Asian Nations, at the Asia Pacific Forum of National Human Rights Institutions Regional Conference on Business and Human Rights, Seoul, 11 to 13 October 2011.

[13] See www.unglobalcompact.org/.

commitment undertaken by some 8,700 corporate participants in the Global Compact[14] from over 130 countries.

27. Overall, the Global Compact pursues two complementary objectives:

(a) To mainstream the 10 principles in business activities around the world;

(b) To catalyse actions in support of broader United Nations goals, including the Millennium Development Goals. The 10 universally accepted principles address issues related to human rights, labour, the environment and anti-corruption. Two of the principles concerning the observance of human rights are particularly relevant:

Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle 2: make sure that they are not complicit in human rights abuses.

28. The Global Compact incorporates a transparency and accountability policy known as the Communication on Progress. The annual posting of a communication on progress is an important disclosure of a participant's commitment to the Global Compact and its principles. Participating companies are required to follow this policy, as a commitment to transparency and disclosure is critical to the success of the initiative. Failure to follow this guideline can result in a downgrade of participant status and even to possible expulsion.

29. Following the endorsement of the Guiding Principles by the Human Rights Council the Global Compact has communicated to its members that the commitment participating companies undertake with regard to Principle 1 corresponds to the requirements contained under the corporate responsibility to respect in the Guiding Principles. The Global Compact is committed to ensuring that all tools and guidance materials for participating companies on human rights are aligned with the Guiding Principles.

3. Businesses operating in situations of armed conflict and occupation

30. In armed conflict, the standards of international humanitarian law apply to business enterprises as well as to others.[15] International humanitarian law grants protection to business personnel — provided they do not take part directly in armed hostilities — as well as to the assets and capital investments of enterprises. It also imposes obligations on staff not to breach international humanitarian law and exposes them — and the enterprises themselves — to criminal or civil liability in the event that they do so. The International Committee of the Red Cross (ICRC) has developed guidance on the rights and obligations of business enterprises under international humanitarian law.[16]

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[14] Global Compact and Office of the United Nations High Commissioner for Human Rights, "The UN Guiding Principles on Business and Human Rights: Relationship to UN Global Compact Commitments", July 2011; available from www.unglobalcompact.org/docs/issues_doc/human_rights/Resources/GPs_GC%20note.pdf.

[15] See www.ohchr.org/Documents/Issues/Business/RtRInterpretativeGuide.pdf, p. 12.

[16] *Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law* (International Committee of the Red Cross, 2006). See also Eric Mongelard, "Corporate civil liability for violations of international humanitarian law", *International Review of the Red Cross*, vol. 88. No. 863, September 2006.

31. Gross human rights abuses involving businesses often occur amid conflict over the control of territory, resources or a Government, where the mechanisms for human rights fulfilment and enforcement are not functioning as intended. Businesses that seek to avoid being complicit in human rights violations are increasingly seeking guidance from the States in which they operate.

32. The risks of operating a business in a conflict-affected area can be high and therefore States should warn organizations of the potential for violating human rights as a result of business activities. States should review whether their policies, legislation, regulations and enforcement measures effectively address these heightened risks, including encouraging businesses to use due diligence to assess their own situation. Appropriate steps should furthermore be taken to address gaps identified. This may include exploring civil, administrative or criminal liability for enterprises domiciled or operating in their territory and/or jurisdiction that commit or contribute to abuses or violations of international law.

33. The costs to companies and businesses of failing to respect international humanitarian law are considerable, including damage to a company's public image and impact on shareholder decisions and share price, and could result in employees being criminally responsible for rights abuses. According to ICRC, "International humanitarian law states that not only perpetrators, but also their superiors and accomplices may be held criminally responsible for the commission of war crimes. Of these forms of commission, complicity is likely to be the most relevant to business enterprises."[17]

34. Immunity from international crimes cannot be sought by employees of businesses simply because they are operating in the name of a business. Employees of companies can face investigation and prosecution for human rights violations committed irrespective of where the violation was committed and thus States have an obligation to take the appropriate action. ICRC warns that: "Business enterprises should therefore not discount the possibility of legal proceedings simply because the country where they are operating is unlikely to conduct criminal investigations or incapable of doing so. The risk of corporate and individual responsibility for crimes perpetrated in the context of an armed conflict is thus an element of growing importance in a business enterprise's assessment of the range of risks associated with its activities during an armed conflict."[18]

35. Civil liability is also increasingly being used as a means to bring human rights and international humanitarian law abuses committed by corporations to light, and as a way to provide an effective remedy for victims. At times, companies work with State actors, including military forces, to secure and/or extract natural resources, resulting in what has been termed "joint action".

36. *Doe v. Unocal Corporation* is one example where civil action was taken in relation to serious human rights abuses, such as torture, rape, forced labour and displacement.[19] In the United States, the Court of Appeals for the Ninth Circuit[20] applied a complicity theory from criminal law, namely that of aiding and abetting,

[17] www.icrc.org/eng/assets/files/other/icrc_002_0882.pdf, p. 26.

[18] Ibid.

[19] www.icrc.org/eng/assets/files/other/irrc_863_mongelard.pdf, p. 15.

[20] United States Court of Appeals for the Ninth Circuit, Doe v. Unocal Corp., judgement of 18 September 2002.

and thus ruled that, when combined with the fact that Unocal Corporation had knowledge of the human rights violations before becoming party to the relevant venture, there was sufficient evidence to hold Unocal liable. The case of Bil'in Village Council[21] against the Canadian company Green Park International is a civil liability case brought to the Canadian court system. The plaintiffs argued that Green Park International was involved in building and promoting a settlement built on the land of the people of Bil'in. The Canadian courts accepted the fact that corporations have obligations to avoid participating, even indirectly, in a breach by Israel of its obligations under the Fourth Geneva Convention, and that the obligations contained in the Convention do not bind only States parties. However, the superior court declined to consider the case further, on the basis that Israeli courts provided a more appropriate forum (*forum non conveniens* doctrine).[22] In regard to this particular case, the Special Rapporteur would note the long track record of the Israeli court system deciding against Palestinian plaintiffs, which results in near total impunity for the actions of Israel and Israeli settlers in the West Bank, including East Jerusalem. In this context the Special Rapporteur would question the validity of this particular decision.

V. Case studies

37. The Special Rapporteur notes that the businesses highlighted in this report constitute a small portion of a wide range of companies that have linked their business operations to Israel's settlements in the occupied Palestinian territory. The Special Rapporteur received a large amount of information from stakeholders concerning business practices of companies in relation to Israel's settlements; further investigations will be made to determine whether those allegations are well founded and may lead to additional attention in future reports. The businesses include, inter alia, retailers and supermarket chains, fast food suppliers, wine producers and products that are often labelled "products of Israel", but are in reality produced or extracted from the occupied Palestinian territory. They include small, medium and large Israeli-owned companies and multinational corporations. The Special Rapporteur limits coverage to selected illustrative cases; it proved necessary to exclude a significant amount of reliable information at this stage, owing in particular to the word limit imposed by the United Nations on this report.

1. Caterpillar Incorporated

38. Caterpillar[23] is one of the leading global manufacturers of construction and mining equipment. It is the world's largest maker of construction and mining equipment, diesel and natural gas engines, and industrial gas turbines, and has stated that it "drives positive and sustainable change on every continent".[24] Caterpillar's worldwide employment was 132,825 at the end of the second quarter of 2012. On 25 July 2012 Caterpillar announced an all-time quarterly record profit per share of $2.54. Sales and revenues were $17.37 billion, also an all-time record. Profit was $1.699 billion in the quarter.[25] The Chairman and Chief Executive Officer of

[21] Bil'in Village Council is the municipal authority over the Palestinian village of Bil'in.

[22] www.eilfe.com/online-courses/doc.../282-yassin-v-greenpark.html.

[23] www.caterpillar.com/home.

[24] www.caterpillar.com/cda/layout?x=7&m=390122.

[25] www.caterpillar.com/cda/files/3801914/7/Final%20%20Q2%202012%20Cat%20Inc%

Caterpillar, Doug Oberhelman, noted: "I am very pleased with Caterpillar's record-breaking performance in the second quarter. Our employees, dealers and suppliers across the globe are doing a superb job of executing our strategy."

39. Caterpillar has been publically criticized by various actors, including religious organizations, non-governmental organizations (NGOs) and United Nations mechanisms, for supplying to the Government of Israel equipment, such as bulldozers and construction apparatus, which is used in the demolition of Palestinian homes, schools, orchards, olive groves and crops. Amnesty International reported in 2004 on these violations[26] and noted that Caterpillar products are used in the construction of the wall, which was ruled contrary to international law by the International Court of Justice.[27] Human Rights Watch has reported periodically on Caterpillar products being used in human rights abuses, while the NGO War on Want produced a report that focused solely on Caterpillar's dealings with the Government of Israel.[28] Morgan Stanley Capital International's (MSCI) World Socially Responsible Index recently removed Caterpillar from its indexes,[29] stating, "Caterpillar was removed from several MSCI ESG Indices due to an Environmental, Social and Governance (ESG) rating downgrade. The company was removed from the MSCI World ESG Index, the MSCI USA ESG Index and the MSCI USA IMI ESG Index on March 1, 2012, following the February Index Review".[30] MSCI noted: "Caterpillar is involved in a long running controversy regarding the use of its bulldozers by the Israeli Defense Forces in the occupied Palestinian territories" and "MSCI ESG Research has assessed this human rights controversy since 2004. This controversy has been incorporated in the rating since then and, as such, did not trigger the ratings downgrade in February 2012." MSCI further stated that the controversy is accounted for in the community and society rating, which includes an assessment of company performance on human rights issues and accounts for 10 per cent of a company's ESG rating.

40. On 28 May 2004 the then Special Rapporteur on the right to food wrote to Caterpillar, highlighting his observations from a recent mission he had undertaken to the occupied Palestinian territory.[31] The Special Rapporteur on the right to food noted his concern in regard to the use of armoured bulldozers supplied by Caterpillar to destroy agricultural farms, greenhouses, ancient olive groves and agricultural fields planted with crops, as well as numerous Palestinian homes and sometimes human lives. The Special Rapporteur further noted that the increase in homelessness and loss of livelihood among the Palestinian people would limit their access to food, which was enshrined under article 11 of the International Covenant on Economic, Social and Cultural Rights. The widely publicized death of Rachel Corrie, a 23-year-old peace activist from the United States of America, on 16 March 2003, highlighted the use of Caterpillar products and brought world attention to the

20Release%20V2.pdf, p. 1.

[26] www.amnesty.org/en/library/asset/MDE15/033/2004/en/24cc1bb1-d5f6-11dd-bb24-1fb85fe8fa05/mde150332004en.html.

[27] www.icj-cij.org/docket/index.php?pr=71&code=mwp&p1=3&p2=4&p3=6&ca.

[28] www.waronwant.org/campaigns/justice-for-palestine/hide/inform/17109-caterpillar-the-alternative-report.

[29] www.aljazeera.com/news/middleeast/2012/06/201262711732387905.html.

[30] www.msci.com/resources/pdfs/ESG_Indices_General_QA_July_2012.pdf.

[31] http://unispal.un.org/unispal.nsf/e4f689b77065914485256c530073aa6b/bcffff2cc84ac9bc85256e2b00685371?OpenDocument.

demolition of Palestinian property. Ms. Corrie was protesting to prevent the demolition of a Palestinian home in Gaza and, despite being dressed in highly visible bright orange clothing, was killed when the Caterpillar bulldozer ran over her, fracturing her arms, legs and skull.[32]

41. Despite numerous reports, statements and advocacy regarding Caterpillar, the company continues to ignore the human rights implications of its activities in the occupied Palestinian territory. In recent years the Mission Responsibility through Investment Committee of the Presbyterian Church attempted to engage with Caterpillar[33] and noted: "Company officials made it clear that the company took no responsibility for the use of its products even by its dealers (the only party considered to be a customer), had no procedure in place for monitoring or ensuring compliance with Caterpillar's stated expectations even in a situation with a documented historic pattern of the equipment being used in human rights violations, and no desire to develop such a procedure. Further, they indicated that Caterpillar, although a global company doing business in virtually every country except where prohibited by U.S. law, had no capacity to evaluate whether particular actions are in accord with human rights conventions or international humanitarian law."[34]

42. Caterpillar has an extensive code of conduct.[35] The company states that: "The world is continually changing, and so is our business. But one thing that will never change is our commitment to maintaining the highest ethical standards. Our reputation is one of our greatest assets. Each of us has a responsibility to protect it — everyday."[36] Caterpillar's mission statement further claims that: "When faced with challenges, how we respond defines us. Our decisions, and ultimately our actions, tell the world who we are at Caterpillar."

2. Veolia Environnement

43. Veolia Environnement is a French multinational company operating in the water, waste management, and energy and transport sectors. The company was founded as Compagnie Générale des Eaux on 14 December 1853.[37] In its 2011 Annual and Sustainability Report Veolia reported a 3.1 per cent growth in revenue, raising its revenue to €29.6 billion. The company employs 331,266 employees worldwide and operates in 77 countries.[38]

44. Veolia has a 5 per cent share in the CityPass consortium, through its subsidiary Connex Israel, which was contracted by Israel to operate the light rail project in Jerusalem. The light rail is designed to connect the city of Jerusalem with Israel's illegal settlements. Veolia owns approximately 80 per cent of Connex Jerusalem, the company which operates the trains.[39] Furthermore, through its subsidiary company the Israeli Veolia group,[40] Veolia owns and operates the Tovlan landfill in the Jordan

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[32] www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12470&LangID=E.

[33] www.pcusa.org/media/uploads/mrti/pdfs/2012-mrti-report-9-9-11.pdf.

[34] www.pcusa.org/media/uploads/mrti/pdfs/2012-mrti-report-9-9-11.pdf, pp. 5-6.

[35] www.caterpillar.com/company/strategy/code-of-conduct

[36] www.uk.cat.com/cda/files/89709/7/English_OVIA_v05.pdf, p. 2.

[37] www.veolia.com/en/group/history/.

[38] www.veolia.com/veolia/ressources/documents/2/11886,RA_VEOLIA_2011_UK_72dpi.pdf, p. 5.

[39] Who Profits: Exposing the Israeli Occupation Industry (www.whoprofits.org/company/veolia-environnement).

[40] www.veolia-es.co.il/he/.

Valley of the occupied Palestinian territory. The Tovlan landfill is used to dump Israeli waste from both within Israel and Israeli settlements. Veolia furthermore operates buses linking Modi'in and Jerusalem via road 443 and thereby servicing the Israeli settlements of Giva'at Ze'ev and Mevo Horon.

45. In 2011 Veolia released its CSR (Corporate Social Responsibility) Performance Digest, a document in which the company makes clear that: "Whatever the geographical context, Veolia Environnement's activities must be carried out in compliance with both national standards and the recommendations of international organizations like the ILO and OECD, in particular as concerns respect for basic rights, accounting for cultural diversity and protecting the environment."[41]

46. Veolia is a member of the Global Compact and highlights the above-mentioned 10 principles in its CSR Performance Digest, including the two human rights related principles.

3. Group4Security

47. Group4Security (G4S) is a British multinational corporation that provides security services. G4S specializes in business processes and facilitation where security and safety risks are considered high. G4S boasts expertise in the assessment and management of security and safety risks for buildings, infrastructure, materials, valuables and people. G4S is the largest employer on the London Stock Exchange, with operations in more than 125 countries and over 657,000 employees. In 2011 the company reported turnover of £7.5 billion, of which 30 per cent came from developing markets.

48. G4S Israel (Hashmira) is the Israel subsidiary of G4S. The company provides resources and equipment for Israeli checkpoints. The company also provides security services to businesses in settlements, including security equipment and personnel to shops and supermarkets in the West Bank settlements of Modi'in Illit, Ma'ale Adumim and Har Adar and settlement neighbourhoods of East Jerusalem. In addition, after the company purchased Aminut Moked Artzi, an Israeli private security company, it took over its entire business operations, which include security services to businesses in the Barkan industrial zone located near the settlement of Ariel.[42]

49. In 2002, Lars Nørby Johansen, the then Chief Executive Officer,[43] stated that the company would withdraw from the West Bank: "In some situations there are other criteria that we must consider. And to avoid any doubt that Group 4 Falck [G4S][44] respects international conventions and human rights, we have decided to leave the West Bank." However, security activities have still continued through Hashmira's creation of another company, Shalhevet. "The partnership between Hashmira and Group 4 Falck will not accept new security contracts in the West Bank. As equal partners in Hashmira however, we must recognize that the Israeli

[41] www.veolia.com/veolia/ressources/documents/2/11983,2011-CSR-Performance-Digest.pdf, p. 7.

[42] www.whoprofits.org/company/g4s-israel-hashmira.

[43] 2005 Lars Nørby Johansen was succeeded as Chief Executive by Nick Buckles.

[44] In 2004 Securicor merged with Group 4 Falck's security businesses to form Group 4 Securicor and began trading on the London and Copenhagen Stock Exchanges.

shareholders strongly feel that they have a responsibility to the Israeli citizens, which the company has a contract to protect."[45]

50. In March 2011 G4S issued a public statement, regarding its operations in Israeli settlements.[46] The statement included the following: "we have also concluded that to ensure that our business practices remain in line with our own Business Ethics Policy, we will aim to exit a number of contracts which involve the servicing of security equipment at the barrier checkpoints, prisons and police stations in the West Bank."[47] The company further concluded: "a number of our contracts with private enterprises in the area for traditional security and alarm monitoring services are not discriminatory or controversial and in fact help to provide safety and security for the general public no matter what their background"[48] and thus it would not end all operations in Israeli settlements.

51. G4S has joined the Global Compact Group and when doing so its Chief Executive Officer, Nick Buckles, stated: "The principles set out in the Compact are already pretty well embedded in our existing policies, so we thought the time was right to make a public commitment to this excellent initiative." He further stated: "Doing so will give us extra impetus to ensure respect for human rights, the environment and ethical behaviour are part of everything we do worldwide."[49]

4. Dexia Group

52. The Dexia Group is a European banking group which, in 2011, carried out activities in the fields of retail and commercial banking, public and wholesale banking, asset management and investor services. Its parent company, Dexia SA, is a limited company under Belgian law with its shares listed on Euronext Brussels and Paris as well as the Luxembourg Stock Exchange.[50]

53. Dexia Israel Bank Limited is a public company and is traded on the Tel Aviv Stock Exchange. The Dexia Group is the majority shareholder, with 65 per cent of its shares. Dexia Israel Bank Limited is based in Tel Aviv and has consistently provided loans to Israelis living in illegal settlements.[51] Dexia Israel Bank Limited's Chief Executive Officer, David Kapah, highlighted which settlements in the occupied Palestinian territory have received loans: Alfei Menasheh, Elkana, Beit-El, Beit Aryeh, Giva'at Ze'ev and Kedumim, located in the region of the Jordan Valley, the Hebron region and Samaria.[52] The company has supplied mortgages to a number of settlements. Through its dealings with the Israeli National Lottery, Dexia Israel has provided funds for the construction and development of settlements.[53]

54. The Dexia Group has been a member of the Global Compact Group since February 2003. According to the Global Compact Group website the Dexia Group was required to communicate, early in 2012, on progress made by the company in

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[45] http://politiken.dk/erhverv/ECE54474/falck-forlader-vestbredden/ (in Danish).

[46] http://corporateoccupation.files.wordpress.com/2011/03/g4s-israel-statement-march-11-1-1.pdf.

[47] Ibid.

[48] Ibid.

[49] www.g4s.com/en/Media%20Centre/News/2011/02/23/G4S%20joins%20the%20UN%20Global%20Compact%20for%20responsible%20business/.

[50] www.dexia.com/EN/the_group/profile/Pages/default.aspx.

[51] www.knesset.gov.il/mmm/data/pdf/m01630.pdf (in Hebrew).

[52] /www.knesset.gov.il/protocols/data/rtf/ksafim/2007-06-19-02.rtf (in Hebrew).

[53] www.whoprofits.org/sites/default/files/WhoProfits-IsraeliBanks2010.pdf.

implementing the standards set by the Group; that communication on progress is now several months overdue.[54]

5. Ahava

55. Ahava[55] is an Israeli cosmetics company that manufactures high-end skin care products from natural resources extracted from the Dead Sea. The company was created in 1988 and is said to have annual revenue of $142 million. The company is 37 per cent owned by the settlement of Kibbutz Mitzpe Shalem, 37 per cent owned by Hamashbir Holdings,[56] 18.5 per cent by Shamrock Holdings[57] and 7.5 per cent by the settlement of Kibbutz Kalia. Ahava's manufacturing factory and visitor centre is located at Kibbutz Mitzpe Shalem, a settlement in the Jordan Valley. Ahava exports products to 32 countries and one special administrative region.[58]

56. Criticism of Ahava has come from Governments and non-governmental and civil society organizations alleging that by having ownership of the company the settler communities are exploiting Palestinian natural resources and that the profits from these business activities fund and sustain the settlements. Ahava has also been accused of false advertising and misleading its customers, as it labels its products "products of Israel". They are in fact products of the occupied Palestinian territory. Several European countries have started to take action against Ahava. The Governments of the Netherlands[59] and the United Kingdom[60] have investigated Ahava's misleading labelling of its products. Human rights activists have taken legal action against the French company Sephora [61] for distributing Ahava products.

57. The report of April 2012 by the Coalition of Women for Peace, entitled "Ahava, tracking the trade trail of settlement products",[62] highlights the supply chain of Ahava's products and analyses how Palestinian natural resources are being exploited to the profit of Israeli settlers.

6. Volvo Group

58. The Volvo Group[63] is one of the world's leading manufacturers of trucks, buses, construction equipment, drive systems for marine and industrial applications and aerospace components. Volvo also provides financing and other services. Volvo has about 100,000 employees, production facilities in 20 countries and sales in more than 190 markets. In 2011, Volvo's sales increased by 17 per cent, to SKr 310,367 million, compared with SKr 264,749 million in 2010.

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[54] www.unglobalcompact.org/participant/2887-Dexia-Group.

[55] www.ahava.co.il/ and http://www.ahava.com/.

[56] www.whoprofits.org/company/hamashbir-holdings.

[57] A multi-million dollar United States-based investment company; www.shamrock.com/.

[58] Albania, Australia, Austria, Azerbaijan, Belgium, Canada, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Georgia, Greece, Hungary, Italy, Japan, Kyrgyzstan, Lithuania, Mauritius, Netherlands, Norway, Philippines, Russian Federation, Singapore, Slovenia, South Africa, Switzerland, Ukraine, United Kingdom, United States and Hong Kong, China.

[59] www.ynetnews.com/articles/0,7340,L-3806790,00.html.

[60] www.westendextra.com/news/2010/aug/pro-palestinian-protesters-claim-covent-garden-storeahava-are-mislabelling-products.

[61] www.sephora.com/.

[62] www.whoprofits.org/sites/default/files/ahava_report_final.pdf.

[63] www.volvogroup.com/group/global/en-gb/Pages/group_home.aspx.

59. Volvo equipment and products are used in the demolition of Palestinian homes, the construction of the wall and the construction of Israeli settlements. Further, Volvo holds a 27 per cent share in the Israeli company Merkavim,[64] which is a business that manufactures buses that are used to transport Palestinian political prisoners from the occupied Palestinian territory to prisons in Israel. The other 73 per cent of Merkavim shares are owned by Mayer's Cars and Trucks, an Israeli company that exclusively represents Volvo in Israel.

60. In July 2007, the Volvo Vice President for Media Relations and Corporate News, Mårten Wikforss, responded[65] to criticism relating to the demolition of a Palestinian home in Beit Hanina, East Jerusalem.[66] Mr. Wikforss stated: "It is, of course, regrettable and sad if our products are used for destructive purposes. We do not condone such actions, but we do not have any control over the use of our products, other than to affirm in our business activities a Code of Conduct that decries unethical behaviour. However, just as a wheel loader can be used to clear the ground for a new house, it can be used to tear it down."[67] He further stated: "There is no way Volvo ultimately can control the use of its products ... The only restrictions that apply are when the buyer is a country affected by applicable trade sanctions decided on by international governmental organizations and implemented under mandatory law ... Like other multinational enterprises, we rely on governments and certain international governmental organizations to make such determinations."

61. Volvo produces responsibility reports that assess the economic, environmental and social responsibility of its business activities. Volvo also has a code of conduct that identifies three areas where Volvo is committed, including respect for human rights and social issues, environmental care and business ethics. Volvo has been a member of the Global Compact Group since 2001 and has noted: "Volvo pledges to realize and integrate 10 principles regarding human rights, work conditions and environment into its operations. Volvo will also be involved in disseminating the principles in a bid to encourage other companies to support the Global Compact."[68]

7. Riwal Holding Group

62. The Riwal Holding Group, established in 1968 and headquartered in the Netherlands, is an international aerial work platform rental specialist. Riwal employs 800 people and has operations in 16 countries. It is one of Europe's leading companies specialized in the rental and sales of telescopic booms, scissor lifts, telehandlers, aerial work platforms and other access equipment. Riwal has operations and joint ventures in Europe, South America, the Middle East and central Asia.

63. In March 2010 the Palestinian human rights NGO Al-Haq[69] submitted a criminal complaint to the Netherlands authorities that alleges that Riwal was complicit in war crimes and crimes against humanity, because of the use of its

[64] www.whoprofits.org/company/merkavim-transportation-technologies.

[65] www.business-humanrights.org/Links/Repository/553890.

[66] http://electronicintifada.net/content/volvo-symbol-safety-or-human-rights-abuses/7040.

[67] www.reports-and-materials.org/Volvo-response-to-Israel-OT-article-6-Jul-2007.doc (full statement).

[68] www.volvogroup.com/group/global/en-gb/responsibility/Pages/responsibility.aspx.

[69] www.alhaq.org/.

construction equipment and operations in the building of the wall and Israeli settlements.[70] The NGO United Civilians for Peace[71] also investigated the activities of Riwal and urged the company to stop its activities in the occupied Palestinian territory. In October 2010 Riwal's offices were raided by the Netherlands National Crime Squad following such criminal complaints.[72] Riwal has been criticized by members of the Netherlands Parliament, most notably by the then Minister for Foreign Affairs, who noted the undesirability of a Netherlands company being involved the construction of the wall.[73]

8. Elbit Systems

64. Elbit Systems[74] is an Israeli defence electronics company. It works on aerospace, land and naval systems, command, control, communications, computers, intelligence surveillance and reconnaissance, unmanned aircraft systems, advanced electro-optics, electro-optic space systems, airborne warning systems, electronic signals intelligence, data links and military communications systems and radios. In 2010, the total number of employees worldwide was 12,317 and the annual revenue was $2,670 million.[75]

65. In addition to supplying drones and other arms to the Government of Israel,[76] Elbit has been criticized for its electronic surveillance developed for use on the wall[77] and its surveillance equipment used in Israeli settlements.[78] In 2009 the Norwegian Ministry of Defence[79] excluded the company from Norway's Pension Fund on the recommendation of the Norwegian Government's Council of Ethics.[80] That recommendation was based on the advisory opinion of the International Court of Justice regarding the wall. The Norwegian Minister of Finance, Kristin Halvorsen, stated: "We do not wish to fund companies that so directly contribute to violations of international humanitarian law." In 2010 the Deutsche Bank and the Swedish AP funds[81] also sold all their shares in Elbit Systems[82] following the example of the Norwegian Ministry of Defence.[83]

66. Elbit's Social Responsibility Full Report states that Elbit Systems is "committed to being a good corporate citizen and an advocate for social and environmental responsibility".[84]

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[70] www.alhaq.org/images/stories/PDF/accoutability-files/Complaint%20-%20English.pdf.

[71] www.unitedcivilians.nl/.

[72] http://electronicintifada.net/content/dutch-company-raided-over-involvement-occupation/9076.

[73] www.haaretz.com/news/dutch-gov-t-warns-company-to-stop-work-on-w-bank-fence-1.225134.

[74] www.elbitsystems.com/elbitmain/default.asp.

[75] http://media.corporate-ir.net/media_files/IROL/61/61849/20_F.pdf, p. 11.

[76] www.grassrootsonline.org/; www.bdsmovement.net/; www.amnesty.org.uk/news_details.asp?NewsID=18004.

[77] www.bdsmovement.net/files/2011/08/STW-research-green-paper-consultation.pdf.

[78] www.globalexchange.org/economicactivism/elbit/why; http://wedivest.org/learn-more/elbit/; www.bdsmovement.net/files/2011/08/STW-research-green-paper-consultation.pdf; http://stopthewall.org/divest-elbit.

[79] www.regjeringen.no/en/dep/fin/press-center/Press-releases/2009/supplier-of-surveillance-equipment-for-t.html?id=575444.

[80] www.regjeringen.no/pages/2236685/Elbit_engelsk.pdf.

[81] http://stopthewall.org/divest-elbit.

[82] www.reuters.com/article/2010/05/30/us-deutsche-elbit-idUSTRE64T10W20100530.

[83] www.israelnationalnews.com/News/News.aspx/137762#.UC0BVlaTspo.

[84] www.elbitsystems.com/elbitmain/pages/FullReport.asp.

9. Hewlett Packard

67. Hewlett Packard (HP)[85] is the world's largest provider of information technology infrastructure, software and related services.[86] HP is a United States information technology corporation headquartered in California.[87] In 2011, the company's total net revenue was $127,245 million and it employed approximately 349,600 persons worldwide.[88] HP has more than 1 billion customers in 170 different countries and in 2012 its Fortune 500 ranking was 10.[89]

68. HP has contracts with the Israeli Ministry of Defence and the Ministry of the Interior to provide a system of surveillance and identification,[90] the "Basel biometric system", the Israeli identity card system (biometric identity cards, implemented by the biometric database law) in settlements and checkpoints,[91] and to provide services and technologies to the Israeli army. The Basel system is an automated biometric access control system.[92]

69. It has been alleged that the technological systems provided by HP have resulted in human rights violations, such as restricting freedom of movement of Palestinians. The products provided by HP to the Israeli Government and their use in violations have been well documented by NGOs such as Who Profits,[93] as has the humanitarian impact of the wall by the Office for the Coordination of Humanitarian Affairs.[94] HP has also been criticized for providing security and technological services to the settlements of Modi'in Illit and Ariel.

70. Nonetheless, in 2010, HP was named one of the world's most ethical companies in computer hardware by the Ethisphere Institute.[95] That same year, HP was number 2 on Newsweek's 2010 "green rankings" on both the United States 500 and the global 100 greenest companies lists.[96] Since 2002, HP is an active participant in the Global Compact.[97]

71. HP states in its corporate responsibility policy "Global Citizenship"[98] that "everyone is entitled to certain fundamental rights, freedoms, and standards of treatment. Respecting these human rights is core to HP's shared values and is part of the way we do business."[99] Through the "Global Human Rights Policy"[100] the company is committed to integrating respect for human rights in its business as well as "complying with laws and regulations or international standards".

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[85] www8.hp.com/us/en/home.html.

[86] Annual report 2011, p. 2: http://h30261.www3.hp.com/phoenix.zhtml?c=71087&p=irol-reportsAnnual.

[87] www8.hp.com/us/en/hp-information/about-hp/headquarters.html.

[88] Annual report 2011, p. 23.

[89] www8.hp.com/us/en/hp-information/facts.html.

[90] www.whoprofits.org/sites/default/files/hp_report-_final_for_web.pdf.

[91] http://abna.ir/data.asp?lang=3&Id=331748.

[92] www.whoprofits.org/company/hewlett-packard-hp.

[93] www.whoprofits.org/sites/default/files/hp_report-_final_for_web.pdf.

[94] www.ochaopt.org/documents/Pages1-23_Jerusalem_30July2007.pdf.

[95] http://ethisphere.com/past-wme-honorees/wme2010/.

[96] www.hp.com/hpinfo/newsroom/hp360_ww.pdf.

[97] www.unglobalcompact.org/participant/4833-Hewlett-Packard-Company.

[98] www.hp.com/hpinfo/globalcitizenship/.

[99] www.hp.com/hpinfo/globalcitizenship/society/ethics.html.

[100] www.hp.com/hpinfo/globalcitizenship/humanrights.html.

10. Mehadrin

72. Mehadrin is one of Israel's largest agricultural companies. It grows and exports citrus, fruits and vegetables worldwide. Mehadrin holds 10,341 acres of orchards and uses 29,452 hectares of orchards owned by external customers.[101] Mehadrin owns 50 per cent of STM Agricultural Export Limited, which exports vegetables, and 50 per cent of Mirian Shoham, which exports mangoes. Agrexco, one of the main agricultural exporters to Europe, was also bought by Mehadrin. The Mehadrin group also holds subsidiaries in France, the Netherlands, Sweden and the United Kingdom.

73. The majority of Mehadrin's products originate from settlements in the occupied Palestinian territory but they are labelled as products from Israel. Furthermore, Mehadrin participates in implementing Israel's discriminatory water policies, supplying Israeli farmers with millions of cubic metres of water while Palestinians are denied sufficient water.[102]

74. Mehadrin states that its concept of quality comprises "environmentally friendly practices, stringent quality assurance measures, social awareness and continuous improvement through research and innovation"[103] and that "transparency is a basic value in Mehadrin and our knowledge and data is openly shared with our clients".[104]

11. Motorola Solutions Inc.

75. Motorola Solutions Inc. is a United States multinational information technology corporation. It has over 23,000 employees in 65 countries, sales in 100 countries and a total income of $2.1 billion in the second quarter of 2012.[105]

76. Motorola Solutions Israel was the first branch of Motorola outside the United States and had, in 2010, total revenue of $505 million. The company specializes in "marketing and selling communication solutions and systems for military and security forces, emergency and public safety forces, government and public institutions, and commercial and private entities".[106]

77. Motorola Israel provides surveillance systems to Israeli settlements and checkpoints on the wall. In 2005,[107] it was reported that Motorola Solutions Inc. provided radar detectors to Israeli settlements in Hebron, Karmei Tzur and Bracha. The company has allegedly provided a radar detector system named "MotoEagle Surveillance" and a mobile communication system, the "Mountain Rose", to Israeli settlements. Beyond sustaining the settlements, these security systems further limit the Palestinians' freedom of movement within their territory.

78. Motorola Solutions Inc. has an extensive corporate responsibility policy[108] and has a section of its 2011 annual corporate responsibility report dedicated to human rights, noting: "Motorola Solutions' human rights policy is based on our long-

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[101] www.whoprofits.org/content/mehadrin-group-update.
[102] www.blueplanetproject.net/documents/RTW/RTW-Palestine-1.pdf.
[103] www.mehadrin.co.il/docs/P124/.
[104] www.mehadrin.co.il/docs/P200/.
[105] http://investing.businessweek.com/research/stocks/earnings/earnings.asp?ticker=99186.
[106] http://duns100.dundb.co.il/ts.cgi?tsscript=comp_eng&duns=600020978.
[107] www.whoprofits.org/company/motorola-solutions-israel,
[108] http://responsibility.motorolasolutions.com/.

standing key beliefs of uncompromising integrity and constant respect for people, and is consistent with the core tenets of the International Labour Organization's fundamental conventions and the United Nations Universal Declaration of Human Rights".[109] The company furthermore highlights its willingness to work with the NGO community as a "key stakeholder" and has a policy for the implementation of due diligence.

12. Mul-T-Lock/Assa Abloy

79. Founded in 1973,[110] Mul-T-Lock is an Israeli company. In 2000, Mul-T-Lock was bought by Assa Abloy, a Swedish company and member of the Global Compact. Mul-T-Lock describes itself as a "worldwide leader in developing, manufacturing, marketing and distributing High Security solutions for institutional, commercial, industrial, residential and automotive applications".

80. Mul-T-Lock manufactures locks and security products. It has a manufacturing plant located in the Barkan industrial zone, which is in the Israeli settlement of Ariel.[111]

81. In a joint report the Church of Sweden and the NGOs Diakonia and SwedWatch highlighted some of Assa Abloy activities and alleged that the company was complicit in impeding the peace process, since it has invested heavily in its manufacturing plant, which is built on confiscated Palestinian land.

82. Assa Abloy reviewed its code of conduct policy in January 2007 to cover issues such as freedom of association, discrimination, environmental practices and health and safety aspects. It is based on the Universal Declaration of Human Rights and relevant United Nations conventions, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the OECD Guidelines for Multinational Enterprises, the Global Compact and ISO 14001. Assa Abloy has had a code of conduct policy in place since 2004 and became a member of the Global Compact in May 2008.

83. Assa Abloy notes that circumstances may arise that require human rights perspectives other than those mentioned in the code: "Even if such circumstances are not common, Assa Abloy is aware of the potential impact on human rights and acts according to relevant international or local law. If no official guidelines are available, Assa Abloy will seek other sources so as to choose the best approach under the specific circumstances."[112]

13. Cemex

84. Cemex[113] is a Mexican company and world leader in the building materials industry. It produces, distributes and sells cement, ready-mix concrete, aggregates

[109] Ibid., p. 11.

[110] www.mul-t-lock.com/87.html.

[111] www.diakonia.se/documents/public/IN_FOCUS/Israel_Palestine/Report_Illegal_Ground/Report_Mul-T-lock_081021.pdf.

[112] Assa Abloy Code of Conduct, section 3.9; www.diakonia.se/documents/public/IN_FOCUS/Israel_Palestine/Report_Illegal_Ground/Report_Mul-T-lock_081021.pdf.

[113] Ibid.

and related building materials. The total amount of annual sales is US$15.1 billion. The company employs 44,104 worldwide.[114]

85. Cemex owns Readymix Industries, an Israeli company that owns plants in the West Bank (Mevo Horon and the Atarot and Mishor Edomim industrial zones)[115] and has provided elements for the construction of settlements.[116] This company also provides concrete for the construction of Israel's wall and military checkpoints in the West Bank.

86. Through ReadyMix Idustries, Cemex also owns 50 per cent of Yatir quarry, an Israeli settlement where Palestinian natural resources are mined to be exploited by the Israeli construction industry. In 2009, the NGO Yesh-din filed a petition with the Israeli High Court describing these activities as "colonial exploitation of land" and "pillage" and asking Israel's High Court of Justice to intervene. The High Court decided in December 2011 not to halt these activities, since they employ Palestinians. However, the court recommended that Israel not open any new quarries in the West Bank.[117]

87. Cemex states in its code of ethics[118] that it "must endeavour to enhance our reputation as a responsible and sustainable company, which helps to attract and retain employees, customers, suppliers and investors, as well as maintain good relationships in the communities we operate".

VI. Conclusion

88. The failure to bring the occupation to an end after 45 years creates an augmented international responsibility to uphold the human rights of the Palestinian people, who in practice live without the protection of the rule of law. In this context, the Special Rapporteur recalls that the General Assembly, as early as 1982,[119] called on Member States to apply economic sanctions against the State of Israel for its unlawful settlement activities.

89. The Guiding Principles on Business and Human Rights require all business enterprises to respect human rights, which means, in the first instance, avoiding infringing on the human rights of others and addressing adverse impacts on human rights. The Special Rapporteur calls on both States and business enterprises to ensure the full and effective implementation of the Guiding Principles in the context of business operations relating to Israeli settlements in the occupied Palestinian territory.

90. The Special Rapporteur reiterates that the businesses highlighted in this report constitute a small portion of the many companies that engage in profit-making operations in relation to Israeli settlements in the occupied Palestinian territory. The Special Rapporteur is committed to seeking clarification from and otherwise following up with the corporations highlighted in this report. At the same time, the

[114] www.cemex.com/AboutUs/CompanyProfile.aspx.

[115] www.whoprofits.org/sites/default/files/cemex_corporate_watch_may_2011.pdf.

[116] www.whoprofits.org/company/cemex.

[117] www.whoprofits.org/content/israeli-high-court-justice-legalizes-exploitation-natural-resources-opt.

[118] www.cemex.com/AboutUs/files/HighlightsCoE.pdf.

[119] Resolution ES-9/1 (5 February 1982); see also resolution 38/180 A (19 December 1983).

Special Rapporteur may continue to gather information and report on the involvement of corporations in Israel's settlement activities.

91. The Special Rapporteur further concludes that all companies that operate in or otherwise have dealings with Israeli settlements should be boycotted, until such time as they bring their operations fully into line with international human rights standards and practice. In this regard, civil society efforts to pursue the implementation of the Guiding Principles establish a distinctive space between voluntary and obligatory action in the struggle to protect persons vulnerable to human rights abuse.

VII. Recommendations

92. **The Special Rapporteur calls on the Government of Israel to desist from settling its population in the occupied Palestinian territory and begin the process of dismantling its settlements and returning its citizens to its own territory, namely on the Israeli side of the Green Line, in accordance with international law, numerous Security Council and General Assembly resolutions and the advisory opinion of the International Court of Justice on the wall.**

93. **The Special Rapporteur calls on the Government of Israel to publicly inform all businesses with operations in or related to its settlements of the international legal ramifications of such operations, including in relation to civil liability in third countries.**

94. **The Special Rapporteur calls on the Government of Israel to immediately move forward with reparations to the Palestinian people — whether through land and monetary compensation or otherwise — in full and transparent consultation with affected Palestinians, for all activities related to its settlement enterprise since 1967, also ensuring that land used by businesses is restored to its condition status quo ante unless improved.**

95. **The Special Rapporteur calls on the businesses highlighted in this report, as a matter of urgency, to take transparent action to comply with the Guiding Principles on Business and Human Rights, the Global Compact and relevant international laws and standards, with respect to their activities connected with the Government of Israel and its settlements and wall in the occupied Palestinian territory, including East Jerusalem. This should include, as a first step, immediately suspending all operations, including the supply of products and services, which aid in the establishment or maintenance of Israeli settlements.**

96. **The Special Rapporteur calls on the businesses highlighted in this report, with respect to companies that are already signed up to the Global Compact, to be fully aware of the relevant integrity measures, particularly in the case of allegations of systematic or egregious abuses.[120] Company plans to exit the occupied Palestinian territory should identify and address any adverse human rights consequences arising from their exit and from past business activities.**

[120] www.unglobalcompact.org/AboutTheGC/IntegrityMeasures/index.html.

97. The Special Rapporteur calls on the businesses highlighted in this report, with respect to any company maintaining its operations in the occupied Palestinian territory, to conduct heightened due diligence in accordance with the Guiding Principles and international humanitarian law. Such companies should be able to demonstrate their own efforts to mitigate any adverse impact and be prepared to accept any consequences — reputation, financial or legal — of continuing their operations.

98. The Special Rapporteur calls on civil society to actively pursue legal and political redress against non-complying businesses, where necessary in their own national legal and political frameworks, especially where allegations of war crimes and crimes against humanity can be substantiated in relation to settlement activities.

99. The Special Rapporteur calls on civil society to vigorously pursue initiatives to boycott, divest and sanction the businesses highlighted in this report, within their own national contexts, until such time as they bring their policies and practices into line with international laws and standards, as well as the Global Compact.

100. The Special Rapporteur calls on civil society to share resources and information, including through establishing transnational collaborative networks and other initiatives, as a way of promoting transparency and accountability in relation to businesses involved in the Israeli settlement agenda.

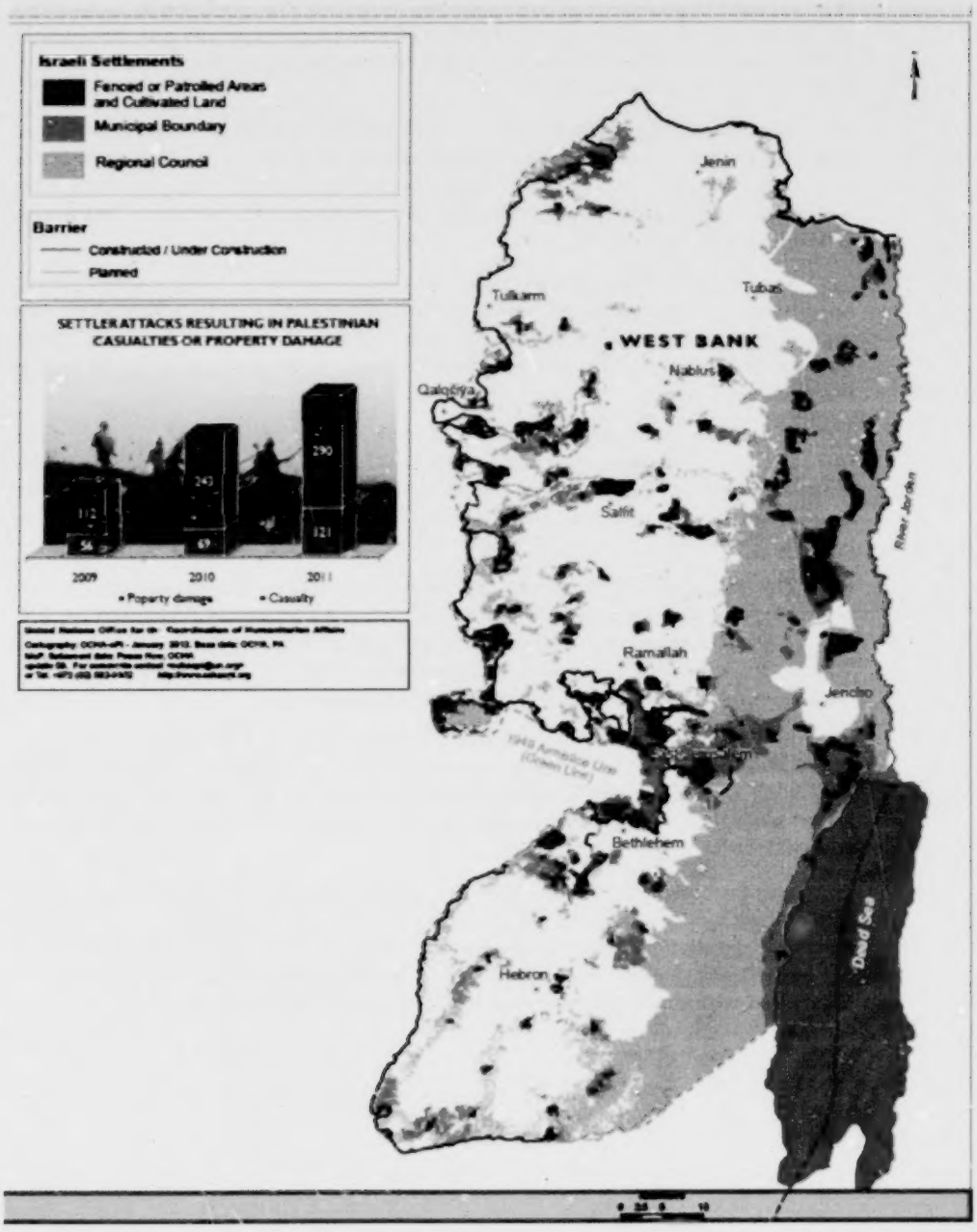
101. The Special Rapporteur calls on the international community to transparently investigate the business activities of companies registered in their own respective countries, especially those highlighted in this report, that profit from Israel's settlements, and take appropriate action to end such practices and ensure appropriate reparation for affected Palestinians.

102. The Special Rapporteur calls on the international community to consider requesting an advisory opinion from the International Court of Justice regarding the responsibility of businesses in relation to economic activities of settlements that are established in violation of article 49 of the Fourth Geneva Convention.

103. The Special Rapporteur calls on the international community to urge the General Assembly to prepare a document linking compliance with Global Compact guidelines with international human rights law in situations of belligerent occupation, with attention to moral, political and legal obligations associated with business operations in the occupied Palestinian territory.

Annex I

Land allocated to Israeli settlements, January 2012



Source: Office for the Coordination of Humanitarian Affairs.

Annex II

The humanitarian impact of Israeli settlement policies, January 2012

FAST FACTS

- Since 1967, Israel has established about 150 settlements (residential and others) in the West Bank, including East Jerusalem, in addition to some 100 "outposts" erected by settlers without official authorization.
- The settler population is estimated at approximately 500,000; its rate of growth during the past decade stood at a yea: / average of 5.3% (excluding East Jerusalem), compared to 1.8% by the Israeli population as-a-whole (ICBS).
- While fenced or patrolled areas of settlements cover three percent of the West Bank, 43% of the West Bank is off-limits for Palestinian use because of its allocation to the settlement's local and regional councils.
- Virtually all of the land viewed by Israel as public or "state land" (27% of the West Bank) has been allocated to settlements, rather than for the benefit of the local population (B'Tselem).
- About one third of the land within the settlements' outer limits is privately owned by Palestinians, according to official Israeli land records (Peace Now).
- Over 60 percent of the Palestinian-owned structures demolished in 2011, due to the lack of permit, were located in areas allocated to settlements.
- In 2011, five Palestinians (inc. two children) were killed and over 1,000 injured (of whom nearly a fifth were children) by Israeli settlers or security forces in incidents directly or indirectly related to settlements, including demonstrations.
- Over 90% of Israeli police investigations into incidents of settler violence during the past six years (2005-2010) were closed without indictment (Yesh Din).
- More than 500 internal checkpoints, roadblocks and other physical obstacles impede Palestinian movement inside the West Bank, including access of children to schools; they exist primarily to protect settlers and facilitate their movement, including to and from Israel.
- The location of settlements was the major consideration behind the deviation of the Barrier's route away from the Green Line; once complete, about 80% of the settler population will live in settlements located on the western ("Israeli") side of the Barrier.

Source: Office for the Coordination of Humanitarian Affairs.